

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ALONZO SUGGS,)
vs.)
Petitioner/Defendant,) CIVIL NO. 09-cv-775-WDS
vs.) CRIMINAL NO. 00-cr-30176
UNITED STATES of AMERICA ,)
Respondent/Plaintiff.)

MEMORANDUM AND ORDER

STIEHL, District Judge:

Petitioner Alonzo Suggs was convicted of distribution of cocaine and possession of a firearm by a felon; he initially was sentenced to 300 months imprisonment, 10 years supervised release, a fine of \$2000, and a special assessment of \$200. On direct appeal, Suggs argued only that this Court committed plain error in allowing the government to present evidence of multiple conspiracies, even though one was not charged in the indictment. The Seventh Circuit rejected this argument; his conviction and sentence were affirmed. *United States v. Suggs*, 59 Fed.Appx. 818 (7th Cir.), *cert. denied* 123 S.Ct. 1775 (2003).

Suggs later filed a motion under 28 U.S.C. § 2255, which this Court denied. *Suggs v. United States*, Case No. 04-cv-730-WDS (S.D. Ill., filed Oct. 12, 2004). However, on appeal, the Seventh Circuit vacated Suggs's sentence and remanded the matter to this Court for resentencing. *Suggs v. United States*, 513 F.3d 675 (7th Cir. 2008). The basis for that decision was a finding that trial counsel had been ineffective in failing to raise two viable arguments on direct appeal: (1) improper introduction of statements by a nontestifying codefendant, and (2) improper sentencing

enhancements. On April 14, 2008, this Court sentenced Suggs to 240 months imprisonment and 10 years supervised release. Although a notice of appeal was filed, the appeal was later dismissed. Suggs then filed the instant motion under § 2255.

In this motion, Suggs argues that new evidence has surfaced recently that bears weight on his conviction for possession and distribution of cocaine. Specifically, Suggs asserts that a material witness, Mr. Ellebracht, has now recanted his testimony against Suggs by affidavit. Moreover, Suggs asserts that the Government was aware of the inconsistencies (or untruths) in Ellebracht's testimony at trial, which may constitute prosecutorial misconduct.

The Court **ORDERS** the Government to file a response to Sugg's motion within **THIRTY (30) DAYS** of the date of this Order. The Government shall, as part of its response, attach all relevant portions of the record.

IT IS SO ORDERED.

DATED: April 28, 2010.

s/ WILLIAM D. STIEHL
DISTRICT JUDGE